

HOUSE No. 3302

The Commonwealth of Massachusetts

PRESENTED BY:

Kathi-Anne Reinstein

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to ice cream trucks and vendors.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Kathi-Anne Reinstein	16th Suffolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 3616 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO ICE CREAM TRUCKS AND VENDORS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 Section 7 of Chapter 90 of the General Laws, as appearing in the 2004 Official Edition, is
2 hereby amended by adding at the end thereof the following:—

3 As used in this section, the following terms shall have the following meanings:— “Ice cream
4 truck or ice cream vehicle”, every motor vehicle in which ice cream, ice milk, frozen dairy
5 products or ice that is flavored with syrup are carried for purposes of retail sale on the streets of
6 the Commonwealth;

7 “Ice cream vendor”, a person offering ice cream, ice milk, frozen dairy products or ice that is
8 flavored with syrup for sale from a motor vehicle on the streets of the Commonwealth.

9 In addition to other equipment required by law, every ice cream truck shall be equipped with:

10 (a) signal lamps, clearly visible to passing traffic. These signal lamps shall be at least four inches
11 in diameter and shall display two alternately flashing orange lights on the front of the vehicle,
12 and two on the back of the vehicle, having both lights on each side mounted at the same level;

(b) a “SLOW — FOR CHILDREN CROSSING” signal arm that can be extended horizontally from the left side of the vehicle. This arm shall be orange with white lettering and contain two alternately flashing orange lights that are at least three inches in diameter and visible to the front and rear upon a straight roadway.

(c) a convex mirror mounted on the front of the vehicle so the driver in his normal seating position can see the area in front of the vehicle obscured by the hood.

(d) signs or decals on both the front and rear of the vehicle identifying the vehicle as an ice cream truck. The truck must also contain either the words “CHILDREN CROSSING,” “WATCH CHILDREN,” “CAUTION CHILDREN” or “SLOW FOR CHILDREN” on both the front and rear of the vehicle in distinctive lettering visible at 300 feet upon a straight level roadway; and

(e) an outside passenger side mirror that provided visibility to the complete right side of the vehicle.

The driver of an ice cream truck stopped on the road for the purpose of vending shall actuate the special orange flashing lights and extend the “SLOW — FOR CHILDREN CROSSING” arm. These lights and the “SLOW — FOR CHILDREN CROSSING” arm shall not be used when the truck is in motion nor at any time the truck is stopped for a purpose other than vending.

These lights and the “SLOW — FOR CHILDREN CROSSING” arm are not required to be flashing when the ice cream truck is parked and vending at a sporting or any other type of event, unless traffic is passing the ice cream truck and the truck’s ordering window is on the opposite side of the sporting or other event. These lights will also not be required to be in use while the

34 truck is parked and vending at a parade, fair, private property location, or at a specially permitted
35 or approved stationary location in which the vendor is there for more than 20 minutes.

36 The driver of a vehicle approaching from either direction an ice cream truck stopped on the road,
37 with its safety lights flashing, shall stop first, make sure it is safe to proceed, and then proceed
38 with caution at a speed that is not in excess of 15 mph until that driver is at least 300 feet away
39 from the ice cream truck. Furthermore, drivers must yield that right of way to any pedestrian who
40 crosses the roadway to or from the ice cream truck.

41 No person shall vend in residential neighborhoods before 10 a.m. or after one half hour after
42 sundown, not to exceed 10 p.m. during daylight savings time, except on a holiday or holiday
43 celebration (i.e., 4th of July).

44 A person shall not vend on streets where the speed limit exceeds 30 miles per hour.

45 A person shall vend only when the ice cream truck is lawfully parked or stopped.

46 A person shall vend only from the curbside of the vehicle.

47 A person shall not vend to a person standing in the roadway on the driver side of the truck.

48 A person shall not stop on the left side of a one way street to vend.

49 The driver of an ice cream vehicle shall not back up to make or attempt to make a sale.

50 The driver of an ice cream vehicle shall not permit any unauthorized person to ride in or on the
51 vehicle. This includes any person who does not have a valid hawkers and peddlers permit in their
52 name, excluding trainees and persons who are learning the ice cream business and safety
53 procedures for possible employment.

Children under the age of 14 under no circumstances may ride in an ice cream truck, unless the vehicle has one seat belt per person, and the child is related to the driver.

Sounds of the ice cream vehicle shall be restricted to a traditional bell and a traditional professional street vendor's musical chime box. Music that is considered "vocal" or music originating from a cassette, CD, or other format is prohibited.

The interior and exterior of each ice cream truck, and all equipment therein shall be kept clean and sanitary and maintained in good repair at all times.

Ice cream trucks must have a trash barrel to dispose litter generated from products sold on the truck.

Every ice cream truck shall be inspected by the local health department once each year prior to its use in the city or town for the purpose of retail sales of frozen products. The department shall inspect each ice cream truck to determine whether it complies with all health and safety requirements of this ordinance and all city, state, and federal motor vehicle regulations.

A fee of \$25 shall be collected for this inspection.

Any ice cream truck driver or company that does not comply with the provisions of this section shall be punished with a fine of not less than \$1,000 and immediately be forced to cease its business until such safety equipment is installed and used on the vehicle. Likewise, any vendor caught vending without a peddlers license or health permit, if required at their locale, will receive the same such fine, per violation.